IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7949 of 2005

Between:

Shoukat Ali, S/o. Babar Ali,
r/o. 10-148/6/E/B to D, Ganesh Nagar, Balanagar (M),
Ranga Reddy District.

... PETITIONER

AND

The Commissioner, Kukatpally Municipality, Kukatpally, Ranga Reddy District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in issuing impugned proceedings in C.O.No.T.P.S.III-119/2004-05 dt. 07.04.2005 for demolition of my residential house bearing D.No.10-148/6/E/B to D on plot No.44 & 45, part in Sy.No.54 and 56 admeasuring 119.13 Sq. meters situated at Ganesh Nagar formerly known as Vinayaka Nagar, Balanagar Mandal, R.R.District as illegal, unjust, arbitrary and malafide besides being violative of provisions of A.P. Municipalities Act 1965.

Counsel for the Petitioner: MR.K.SANKARAYYA

Counsel for the Respondent: MR.P.RADHAKRISHNA

The Court at the stage of admission made the following:

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ORDER :

This writ petition is filed aggrieved by the order dated 07-04-2005 passed by the respondent under Section 56(1) of the Andhra Pradesh Urban Areas (Development) Act, 1975, thereby directing the petitioner to remove the unauthorised constructions alleged to have been made by the petitioner in Sy.Nos.54, 56 and 57 of Ganesh Nagar of Bala Nagar (v) area of Kukatpally Municipality, Ranga Reddy District.

In the impugned order, it is stated that though a show cause notice was served on the petitioner on 21-03-2005, the petitioner failed to submit his explanation and therefore the impugned order has been passed on the material available on record. However, the petitioner states that on receipt of the show cause notice, he has submitted an explanation on
30-03-2005 itself, but the respondent failed to consider the same. A copy of the explanation dated 30-03-2005 is filed at page No.15 of the material papers along with the writ petition and it bears the acknowledgment, which shows that the said explanation was received in the office of the respondent.

In the circumstances, I am of the opinion that the respondent ought to have passed appropriate orders only after taking into consideration the explanation offered by the petitioner. Since no such procedure was followed, the impugned order, which is not in conformity with the principles of natural justice, is liable to be set aside.

Accordingly, the writ petition is disposed of with a direction to the respondent to consider the explanation of the petitioner dated 30-03-2005, a copy of which is filed at page 15 of the material papers filed along with this writ petition, and to pass appropriate orders, in accordance with law. Till such orders are passed and a copy of the same is communicated to the petitioner, the respondent shall not interfere with

the possession of the petitioner in respect of the house bearing D.No.10-148/6/E/B to D in Plot No.44 and 45 part in Sy.Nos.54 and 56 admeasuring 119 square meters situated at Ganesh Nagar, Balanagar Mandal, Ranga Reddy District.

The Writ Petition is accordingly disposed of. No order as to costs.

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G. ROHINI, J

Dated: 08-04-2005

LSK

To

1) The Commissioner Kukatpally Municipality, Kukatpally,
Ranga Reddy District.

2) Two C.D.copies.